

UNIVERSITY OF FORT HARE
FACULTY OF LAW
ALICE CAMPUS

Commercial Law
ACL 121

DEGREE SUPPLEMENTARY EXAMINATION
OCTOBER / NOVEMBER 2024

Time: 3 Hours
Subject: ACL 121
Marks: 100

This paper consists of 7 including the cover page.

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Internal Examiners: **Ms. ZP Mkuzo**
Internal Moderator: **Prof. MR Phooko**

INSTRUCTIONS

Answer ALL questions.

Read the questions carefully.

It is in your best interest to write clearly and legibly.

SECTION A-MULTIPLE CHOICE QUESTIONS

QUESTION 1

Question 1.1

Which practical approach must the courts use when the words or phrases are defined in the statute itself statute does not identify words or phrases?

- a) Systematic approach
- b) Teleological approach
- c) Presumptions
- d) Textual approach
- e) Historical approach

Question 1.2

A sale is a contract

- a) that can be interpreted in two ways.
- b) Where the seller is late in delivering the goods purchased by the buyer.
- c) Where there are terms that apply automatically to the contract by way of law.
- d) By which the seller undertakes to transfer a thing or possession thereof, to the buyer in return for payment of a price by the buyer.

Question 1.3

A hybrid lease

- a) Is where the agreement states the length of the lease expressly or by implication.
- b) Is a mixture of a fixed-term and a periodic lease.
- c) Is when a rental is bracketed.
- d) Leases are classified into different types.

Question 1.4

The interest on the credit granted is the amount

- a) Charged for finance charges.
- b) That the consumer must pay to the credit provider in addition to the actual value received.
- c) Paid for borrowed as the principal debt.
- d) A deposit the consumer must pay to the credit provider, which is agreed portions of the total cost of goods bought.

Question 1.5

Select the CORRECT answer.

Zet from a direct marketing business has contacted Pam and has demonstrated to Pam a new air fryer. Zet leaves the air fryer with Pam, without arranging for payment. These goods are called:

- a) Bundled goods
- b) Grey -market goods
- c) Defective goods
- d) Unsolicited goods

Question 1. 6

The principal is a person who

- a) Does not have the necessary capacity to perform juristic acts.
- b) Cannot act as an agent for another person.
- c) Is a minor over the age of seven years with limited capacity to conclude false.
- d) Has the necessary contractual capacity to perform a particular juristic act and can authorise another person to perform such an act on their behalf.

Question 1. 7

Electronic commerce is where

- a) A business is conducted using the Internet and the World Wide Web.
- b) POPIA contains various provisions to protect the privacy of personal information.
- c) Cyberspace allows us to enter into e-commerce in many different ways.
- d) The parties have not agreed on a specific form of electronic signature.

Question 1. 8

A provisional order of sequestration allows

- a) any interested party an opportunity to object to the issuing of a final order of sequestration
- b) a person who is dissatisfied with the court's decision to grant a final order of sequestration.
- c) the court to exercise its discretion in deciding whether to rehabilitate the insolvent
- d) an insolvent's period of insolvency comes to an end once they have been rehabilitated.

Question 1.9

Testate succession refers to the

- a) transfer of the deceased's assets to their heirs in terms of a will.
- b) Benefits payable by a pension fund
- c) Inheritance that is not paid to minors
- d) a person dies intestate.

Question 1.10

Kustingbrief is a mortgage bond that is

- a) created to ensure the purchase price of the land while also transferring the property into the name of the buyer,
- b) a mortgage bond that secures a debt, or debts, which may arise in the future.
- c) An investment scheme where more than one person provides capital required by the debtor

Question 1. 11

A collective agreement is

- a) a written agreement that deals with the terms and conditions of employment or any other matter of mutual interest to employees and employers
- b) a process where an independent person, a conciliator tries to get the parties to agree on how to resolve a dispute
- c) an order for the employer to reinstate the employee.

Question 1.12

Arbitration is

- a) the only method of dispute resolution.
- b) Processes can only be chaired by an attorney.
- c) Is a process in which disputing parties refer the disagreements to a neutral third party.

Question 1. 13

What is insurance?

- a) Is the sum of money the insured undertakes to pay the insurer for the insurance.
- b) Is the amount the insurer pays to the insured.
- c) Is an attempt to protect ourselves and our possessions such as our houses and our cars, against possible future loss or damages.

Question 1. 14

Insider trading is the

- a) Specific information that is likely to have a material effect on the price of any security listed on a regulated market
- b) Trading of a public company's shares or securities by 'insiders' who have access to material information about the company that is not available to the public.
- c) Issuing of circulars and the provisions of guidelines where necessary.

Question 1. 15

Unlawful competition refers to an agreement between two different traders that prevent or lessen competition.

- a) The legal position between traders, where one trader wrongfully infringes the competitor's right to goodwill.
- b) Agreements made between companies on the same level, which restrict or prevent competition.

Total

(15x 2=30 Marks)

SECTION B -SHORT QUESTIONS

Question 1

Some presumptions have assisted the courts in interpreting the legislation. List any five of those presumption (5)

Question 2

Briefly explain when the contract of sale becomes *perfecta* or perfected. (6)

Question 3

Discuss the clause included in the contract of sale for the second-hand goods. (2)

Question 4

In referring to the principle of *huur gaat voor koop*, explain under what circumstances a buyer of a property will be bound by:

- (a) A long lease for its full term
- (b) A short lease (12)

Question 5

List any two (2) duties of the lessor (2)

Question 6

Discuss the advantages for consumers that were introduced by the National Consumer Act (NCA), regarding their right to settle the whole debt due under the credit agreement at any time. (5)

Question 7

Pearl bought a gift voucher from Woolworths for Pila-sande as a present on 19th December. Pearl paid R500 for the voucher. When Pila-Sande wanted to redeem the Voucher at Woolworths, she was told that the voucher was valid only for three months, it has expired now. Can the Consumer Protection Act assist Pila-Sande?

(5)

Question 8

Zani instructs Jackie to market Zani's flat. Jackie is authorised to conclude a contract with a suitable buyer, provided the selling price is at least R750 000. Is the contract between Zanie and Jackie one of mandate or one of agency? Motivate your answer (5)

Question 9

In terms of the Electronic Communications and Transactions Act 25 of 2002(ECTA), when signature is required as a formality? (2)

Question 10

What are the reasons for the removal of the trustee from office (6)

Question 11

X and Y are married. X intentionally killed Y subsequent to a heated argument they had concerning where the kids should go to school. Y left a will in which they bequeathed their whole estate to X. Will X be able to inherit from Y? (6)

Question 12

Explain what the requirements for a valid mortgage bond (3)

Question 13

List three permissible reasons for dismissal (3)

Question 14

Discuss when an arbitration award may be reversed. (5)

Question 15

Briefly explain when the trust is terminated (2)

Total (70 Marks)

TOTAL MARKS [100]

THE END

